

**California Department of Human Resources
Memorandum**

TO: Personnel Management Liaisons (PML)

SUBJECT: Statewide Guidance on Nepotism Policies	REFERENCE NUMBER: 2015-014
DATE ISSUED: 05/06/15	SUPERSEDES: November 6, 1979 State Personnel Board Memorandum: The State's Policy Regarding Nepotism

This memorandum should be forwarded to:

**Personnel Officers
Employee Relations Officers
Personnel Transactions Supervisors**

FROM: California Department of Human Resources
Labor Relations Division

CONTACT: Personnel Services Branch
(916) 323-3343
Fax: (916) 322-0765
Email: psb@calhr.ca.gov

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service.

Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. Personal relationships for this purpose include *but are not limited to*, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies as discussed below.

Department of Human Resources (CalHR) does not maintain a uniform statewide policy governing nepotism but instead is providing the following guidance for departments to use when developing or updating their own nepotism policies. All department policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit.

While there may be situations where it is appropriate for two individuals who have a personal relationship to work in the same program or activity, departments should be particularly cautious regarding the following potentially sensitive situations: (1) where persons who have a personal relationship work in a small unit in close association; (2) where persons who have a personal relationship work for the same supervisor; (3) where persons who have a personal relationship have a direct or indirect supervisor/subordinate relationship.

Below is a list of commonly asked questions and CalHR's answers to assist departments in drafting or updating their nepotism policies.

Q. What factors should a department consider when evaluating the potential impact of a personal relationship?

A: Departments should carefully evaluate the impact of the personal relationship on the following factors to ensure that the personal relationship has no adverse impact on the workplace:

1. The work production of the unit;
2. The safety, security, and morale of the employees in the unit;
3. The fair and impartial supervision and evaluation of employees.

While it is unlawful to discriminate on the basis of marital status, supervisors are permitted to make employment decisions for bona fide business reasons of supervision, safety, security or morale. (See Gov. Code § 12940 (a)(3)(A); Cal. Code Regs. tit. 2, § 11057.) In circumstances where a personal relationship has had a demonstrable adverse impact on the work of employees in the unit or the fair and impartial supervision and evaluation of the employees in the unit, the department may consider possible alternatives to ensure the workplace is fair and equitable. However, in all circumstances, there must be a legitimate, work-related basis for the employer to implement a strict prohibition against personal relationships.

Q. What types of personal relationships should be included in a nepotism policy?

A. Many departments have established nepotism policies that include a definition of personal relationship which applies narrowly to relationships of blood, marriage, and adoption.

It should be noted that this definition may be too narrow as it fails to consider relationships in which two people live together outside of marriage, and personal friendships that may involve stronger personal commitments than family relationships. The intent of a nepotism policy or rule should be first and foremost to prevent favoritism or bias based on a personal relationship.

Q. To which work relationships should a nepotism policy apply?

A. Most existing policies apply to immediate supervisor/subordinate relationships, to work relationships involving a second-line supervisor, or to the level of supervisor who reviews and signs performance evaluations and similar transactional items. Some nepotism policies have a very narrow application extending only to immediate supervisor/subordinate relationships, while others have a broader application, extending to prohibitions of employment within the same unit, division, or even department.

However, the fact that two persons have a personal relationship outside of work does not automatically mean that such a relationship is harmful to a proper working

relationship on the job. Policies should afford departments the ability to evaluate each situation and determine whether the relationship has an adverse impact on the workplace. Strict prohibitions should extend only to those situations where a personal relationship between employees is likely to adversely impact an employee's ability and fitness to accomplish his/her specific job duties or when the relationship has an adverse impact on the workplace.

Q. What other factors may a department consider in revising or drafting a nepotism policy?

A. There may be other legitimate business factors the employer may take into consideration in evaluating the situation. For instance, departments with small offices in hard-to-recruit areas may decide that employees who have a personal relationship can appropriately be allowed to work in the same office so long as it does not adversely impact the factors described above.

Conversely, departments which have safety and law enforcement employees may decide that the high risk inherent in these types of jobs requires stringent rules to safeguard against employees who are personally related to each other from working together. Again, there must be a legitimate, work-related basis for the employer to implement a strict prohibition against personal relationships.

Q. What other provisions should departments consider including in their nepotism policy?

A. Depending on the department and its needs, it may be appropriate to also consider:

1. Whether the policy will require current employees to notify their supervisor or other appropriate person when working assignments are in conflict with the nepotism policy.
2. Whether the policy will provide an exceptions provision and a corresponding procedure for an employee or supervisor to request an exception to the policy.
3. Whether the policy will include guidelines for addressing instances when a personal relationship arises during employment and how the department will address a personal relationship in violation of the policy (e.g., which employee will be transferred or reassigned and the process in carrying out that transfer or reassignment).
4. Whether the policy will require notification of employment candidates in the interview or in the job posting and whether new employees will be required to certify they do not currently have a personal relationship in violation of the policy.
5. Whether the policy includes guidelines for addressing nepotism complaints from employees such as who to report them to, who will investigate allegations, etc.

Many departments already have policy statements on nepotism. These departments should review their policies to determine if there is any need to update their statements or make them more specific to the needs of their organizations. Those departments without a nepotism policy should develop one.

We recognize that when developing these statements for the first time, or when revising existing statements, there may be issues that become evident which have not been addressed in this memorandum. To the extent that new issues arise, please feel free to contact CalHR so that we may provide more specific guidance.

For questions related to this PML, state department personnel office designated liaisons should contact the Personnel Services Branch by emailing questions to psb@calhr.ca.gov or calling (916) 323-3343.

/s/Mary Sue Paul

Mary Sue Paul, Manager
Personnel Services Branch